

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

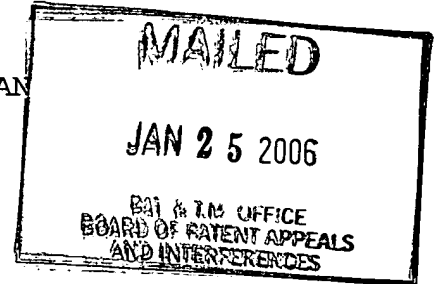
The opinion in support of the decision being entered today (1) was **not** written for publication in a law journal and (2) is **not** binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte VEERAPPA S. SUBRAMANIAN
and MUTHUSAMY SHANMUGAM

Application No. 09/933,559



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on October 5, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On March 14, 2005, appellants filed Appeal Brief. A review of the file reveals that the Appeal Brief is not fully compliance with 37 CFR § 41.37(c).

37 CFR § 41.37(c) states in part:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each

dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

(ix) *Evidence appendix*. An appendix containing copies of any evidence submitted pursuant to §§ 1.130, 1.131, or 1.132 of this title or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered in the record by the examiner. Reference to unentered evidence is not permitted in the brief. See § 41.33 for treatment of evidence submitted after appeal. This appendix may also include copies of the evidence relied upon by the examiner as to grounds of rejection to be reviewed on appeal.

(x) *Related proceedings appendix*. An appendix containing copies of decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of this section.

A review of the application indicates that the following appropriate sections are missing from the Appeal Brief filed March 14, 2005:

1) "Summary of claimed subject matter" as set forth in 37 CFR § 41.37(c)(1)(v);

2) "Evidence appendix" as set forth in 37 CFR § 41.37(c)(1)(ix); and

3) "Related proceedings appendix" as set forth in 37 CFR § 41.37(c)(1)(x).

A substitute appeal brief that is in compliance with the headings as set forth under 37 CFR § 41.37 are required. For more information on the Board's new rules see the web page entitled More Information on the Rules of Practice Before the BPAI, Final Rule at: <http://www.uspto.gov/web/offices/dcom/bpai/fr2004/moreinfo.html>.

Furthermore, the Examiner's Answer does not comply with the headings as set forth in the new rules under 37 CFR § 41.37(c). Correction is required.

Accordingly it is


ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief of March 14, 2005 defective;
- 2) to notify applicants to file a Substitute Appeal Brief in compliance with 37 CFR § 41.37;

- 3) for the examiner to consider the Substitute Appeal Brief, vacate the Examiner's Answer mailed June 6, 2005, and issue a revised Examiner's Answer in accordance with 37 CFR § 41.37(c); and

4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 
CRAIG FEINBERG
Program and Resource Administrator
(571) 272-9797

CF/dal

KENT H. CHENG, ESQ.
COHEN, PONTANI, LIEBERMAN & PAVANE
STE. 1210
551 FIFTH AVE.
NEW YORK, NY 10176